

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

JAIME GARCIA, <u>et al.</u> ,	*	
Plaintiffs,	*	
v.	*	Case No.: B-01-103
RONALD D. KIRSTIEN, <u>et al.</u> ,	*	
Defendants	*	
*		

**DEFENDANTS JOINT MOTION TO STRIKE PLAIFIFFS' SUPPLEMENTAL LIST OF
EXHIBIT AND EXHIBITS**

Defendants, Ronald D. Kirstien, Harvey Rothstein, and Randy Habeck (hereinafter "Defendants"), by their undersigned counsel, move to strike the Plaintiffs Supplemental List of Exhibits, and in support thereof state as follows:

1. At approximately 4:00 p.m. on May 5, 2004 Defendants, through counsel, received a voluminous package of Exhibits and a Supplemental Exhibit List through the Court's Electronic Case Filing System. The hearing in this matter on Defendants respective Motions for Summary Judgment is set for 2:00 p.m. on May 6, 2004.
2. Plaintiffs filed these exhibits on the eve of the hearing despite the fact that Plaintiffs' Opposition to the Motions for Summary Judgment was originally due by February 23, 2004 pursuant to this Court's Order of December 11, 2003 and Local Rule 105(2). Defendants consented to two extensions allowing Plaintiffs until March 9, 2004 to respond to the Motions. Those requested extensions were never ruled on by the Court. Defendants then timely replied to Plaintiffs Consolidated Response.

3. Plaintiffs response should have been filed in its entirety no later than March 9, 2004 as required by the Rules of this Court and the Order of December 11, 2003.

4. This Court's Order of December 11, 2003, incorporating the Local Rules, established the briefing schedule for this case and the hearing date of May 6, 2004. There is no allowance in either the Rules or the Order controlling this case which allows this late and unjustified filing.

5. Plaintiffs untimely filing is prejudicial to Defendants in that they must attempt to wade through 150 pages of "new" exhibits and be prepared to respond in time for a hearing the next afternoon.

6. There is no excuse or justification for this filing in contradiction of the Rules and Order of this Court and the Supplemental Exhibits should be stricken.

WHEREFORE, Defendants, Ronald D. Kirstien, Harvey Rothstein, and Randy Habeck respectfully request that this Court strike the Plaintiffs Supplemental List of Exhibits and the Exhibits themselves.

Respectfully submitted,

 /S/
 Craig D. Roswell
 Bar No. 9529
 Niles, Barton & Wilmer, LLP
 111 South Calvert Street, Suite 1400
 Baltimore, Maryland 21202
 (410) 783-6300
 Attorney for Defendants Ronald D. Kirstien
 and Harvey Rothstein

 /S/
 Patrick Kearney, Bar No. 01913
 Selzer Gurvitch Rabin & Obecny, Chartered
 4416 East West Highway
 Fourth Floor
 Bethesda, MD 20814
 Attorney for Defendant
 Randy Habeck